EXHIBIT 2

9549813

Tolunay-Wong Engineers, Inc.

10710 S. Sam Houston Parkway W., Suite 100 * Houston, TX 77031 * Phone (713) 722-7064 * Fax (713) 722-0319

Wednesday October 13, 2011
TWE Proposal No. P11-E078

San Jacinto River Fleet, L.L.C.
C/O Brian Darnell, Vice President
P.O. Box 1559
Channelview, Texas 77530

Ph.: 281-452-2222
Fax 281-457-2991
Email: briandarnellvp@cherylkinc.com

PROPOSAL FOR
PRECONSTRUCTION SITE ASSESSMENT
BIG STAR PROPERTY, HARRIS COUNTY, TEXAS

Dear Mr. Darnell:

Tolunay-Wong Engineers, Inc., (TWE) is pleased to submit the following proposal to San Jacinto River Fleet, L.L.C (SJRF) to provide a pre-construction site assessment in view of becoming exempt from liability under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) for the property recently acquired (formerly Big Star Property) (Site) located along the San Jacinto River in Harris County, Texas. Project details were discussed in our meeting on October 11, 2011.

Background

The site comprises exposed land and submerged land situated along the San Jacinto River near its crossing by Interstate 10 in Channelview, Harris County, Texas. The site is located on the Harris County Key Map, page 459Y. Based on meeting discussions with EPA, SJRF is voluntarily entering into an EPA Order that will remove them from CERCLA liability for conducting barge operations that might spread dioxin contamination originating from the San Jacinto River Waste Pits Superfund Site. The primary concern is that SJRF's barge operations along San Jacinto River could potentially mobilize dioxin impacted sediment, thereby allowing it to spread downstream. Terms of the EPA Order will include the installation of a series of pilings that will prevent barges from drifting into and damaging the cap that has been installed on the SJRWP superfund site. These pilings will be arranged in lines that will constrain barge traffic to specified operating areas owned by SJRF.

Objective

In order to avoid CERCLA liability, EPA requires that a series of baseline samples be collected before SJRF commence barge operations. As per EPA guidance, any sampling effort

will need to address environmental issues associated with sediment remobilization accompanying barge traffic and potential contamination redistribution associated with pile driving efforts that disturb sediment in submerged lands. Such a sampling effort will require submittal of a sampling plan for EPA approval. Hence, the objectives of this proposal consist of three major elements that are progressive in nature. The first objective is to develop a Site Assessment Work Plan that will detail a sampling approach to address EPA's concerns. A necessary component of the work plan is to establish sample locations that are specifically chosen to address these concerns. Since this involves a knowledge of pile locations, then the anticipated pile locations will need to be determined as part of the work plan development. After work plan approval, the second objective is to complete the sampling effort. This will be followed by the third objective of developing a report that supports SJRF's effort to avoid CERCLA liability.

Scope of Work

Each of the major objectives outlined above are detailed as separate tasks below.

Task 1 – Site Assessment Work Plan. The Site Assessment Work Plan will present a site conceptual model that serves as a basis for selecting the number and locations of sediment samples. The work plan will also include a Sampling and Analysis Plan (SAP) along with a Quality Assurance Plan (QAP) as these are essential elements in any work plan submitted for EPA approval. In consideration of the anticipated scope of work, however, these three elements will be combined into one document as opposed to three documents as is customary for agency led projects.

In the absence of specific guidelines from EPA as to the level of detail for the site assessment, SJRF and TWE have tentatively agreed to limit the number of samples to eight total, four representing sediment in the main channel and four representing sediment where piles will be driven. If during work plan development, additional samples are recommended based on a review of existing sediment data, TWE will notify SJRF of this prior to submitting the first draft for SJRF's review. Locations for the first series of samples will be selected at key points where the San Jacinto River passes SJRF's barge docking area. These fours samples will serve as the baseline results for subsequent sampling events scheduled to be conducted on an annual basis. The baseline samples along with results for the annual sampling events are intended to demonstrate that barge traffic is not suspending contaminated sediment that might be transported downstream.

For the second series of samples, a knowledge of pile locations will be necessary for selecting these sample locations. For this reason, TWE will define proposed pile locations concurrent with work plan development. Based on existing data, TWE anticipates that pile locations in the area between the SJRWP site and SJRF's mainland property have the greatest potential for dioxin impact and, therefore, will require sampling. As requested by SJRF, all proposed pile locations, in addition to those being sampled, will be determined. The benefit of this is any proposed locations found to be at sample sites where previous studies show elevated dioxin concentrations can be addressed in the Work Plan. The objective of the second series of

samples is to demonstrate that pilings are not at locations where elevated dioxins occur and could be carried down in the sediment column. At this stage, however, the determination of pile locations will be done in the office and will be based on reference point provided by SJRF. Field confirmation of these locations will be completed under Task 2 detailed below.

In addition to defining the number and location of samples, the Work Plan will also detail field sampling methodology, analytical methods, quality control methods and end use of the data. The section on sampling methodology will propose sampling equipment that is designed to overcome difficulties associated with loose, unconsolidated, wet sediment. Conventional methods are generally not effective in a riverine environments and will need to be modified or new methods developed to collect representative samples.

The draft work plan will be submitted to SJRF for review and comment. Upon incorporating SJRF's comments, the Work Plan will be submitted to EPA for review and approval.

Task 2 – EPA Meeting. The limiting factor in completing the site assessment in a timely manner is EPA's approval of the Work Plan. TWE does not recommend proceeding without EPA approval of the Work Plan as they may find deficiencies that could result in remobilization costs, extended analytical turn-around times, and an overall delay in issuance of the Order. While SJRF has included plans for an EPA meeting, TWE recommends that the meeting be scheduled after the Work Plan has been submitted in order to facilitate the approval process. Face to face meetings are beneficial in that the back and forth exchange that occurs over a period of weeks in normal circumstances can be consolidated into a single event with conditional approval given on the basis of concurrence reached on all points raised by the agency in a meeting environment.

Task 3 – Field Activities. Because of the nature of EPA's concerns, the second objective comprises two components. One component is to collect a series of samples that will serve as a baseline for a sediment monitoring program that will be implemented after barge operations commence. Based on discussions with SJRF, TWE recommends collecting four sediment samples from the main river channel to represent each of the following key areas:

- upstream of SJRF's operations to serve as background;
- along the area of access/egress for barges going into the exposed land dock;
- immediately adjacent to the proposed submerged land dock that just off the main channel; and,
- immediately downstream of SJRF's operations.

In order to collect these samples, SJRF has committed to providing a barge that will be positioned at each location. Sampling will be conducted from the side of the barge using sampling equipment designed for soft, loose sediment. Sampling equipment design will be described in the Work Plan. Also safety concerns with sampling from the side of a barge will be

addressed in the Work Plan. Field personnel will consist of senior environmental technicians that have the requisite hazmat and safety training required by OSHA.

The second component of the field investigation is to collect a series of sediment samples at locations where piles will be driven. As numerous piles are planned along lines traversing several areas, TWE proposes to select only a few representative locations. Prior investigations have shown that much of the area where these pile will go is largely devoid of dioxin impact. One area with a greater risk of impact occurs between SJRF's exposed land property and the SJRWP superfund site. The number of pilings that SJRF has planned for this area is minimal and can probably be addressed with a series of four sediment samples that will represent two lines of pilings traversing this area. As with the channel samples, TWE will use boats and/or barges provided by SJRF as sampling platforms.

All of the sediment samples collected from the San Jacinto River will be analyzed for dioxins by EPA method 8290A. Typically for any analytical program under agency scrutiny, quality control samples in the form of duplicates and blanks are required to make the data defensible. For this project, a minimum of one duplicate sample will be collected from one of the eight sediment samples and a decontamination rinsate blank will be collected to demonstrate that there was no carryover from on sample to another in the event that dioxins are detected. This yields a total of 10 samples that will be analyzed for dioxins.

Task 4 – Reporting and Project Management. Upon receipt of analytical data, TWE will prepare a report stating the findings of the investigation. Included in the report will be conclusions regarding the likelihood that barge operations will further the spread of dioxin contamination released from the SJRWP site. Recommendations regarding modifications to the barge docking design will also be provided if the data supports such a recommendation.

Schedule

TWE can begin on Work Plan development within one to two days following authorization to proceed. Upon approval by SJRF, the draft final Work Plan will be submitted to EPA at which time SJRF or TWE will contact EPA to schedule a meeting. The Work Plan approval process at this point in time will be a function of EPA's schedule and cannot be predicted or controlled from this end. Optimally, EPA will have a vested interest in approving the Work Plan and proceeding with the investigation. Once approved, we can mobilize to the field within two or three days and complete the field activities within three days of mobilization. A draft report will be issued to SJRF within a week of receiving analytical results and then a draft final will be submitted to EPA within a week of receiving comments and changes from SJRF.

Proposed Project Costs

The proposed budget for the scope of work as proposed is as follows.

Work Plan Development	**$5,700**
EPA Meeting	**$3,200**
Field Sampling Effort (labor & equipment)	**$9,380**
Analytical (expedited 1 wk TAT)	**$11,980**
Reporting and Project Management	**$10,810**
10% Contingency (unanticipated events)	**$4,110**
Total Price	**$45,180**

Note, if normal analytical turn-around times are used for dioxins (3 weeks), the analytical cost reduces to **$6,850** and project total reduces to **$40,050.**

Limitations

The proposed tasks presented above, including the Scope of Work and schedule, are contingent upon the following assumptions:

- TWE will have necessary access to the site.
- SJRF will provide TWE with coordinate information for calculating proposed pile locations.
- Key site features will be clearly marked or readily identifiable using drawings and/or exhibits provided by SJRF.
- Price includes one meeting with EPA, but does not include subsequent negotiations with regulatory agencies and other third parties or work that is additional to the tasks outlined above.

The cost for conducting these efforts will be billed according to TWE's standard fee schedule (attached).

Closing Remarks

Should this proposal be acceptable please sign below, make a copy for yourself, and return to TWE. If you have any questions or need additional information, please contact me at (713) 722-7064 or by e-mail at **mbrotherton@tweinc.com**. We at TWE look forward to providing our services to you and the successful completion of this project.

Sincerely,
Tolunay-Wong Engineers, Inc.

Paul Wild
Vice President
Environmental Services Division

Mark Brotherton
Sr. Project Manager
Environmental Services Division

TWE PROPOSAL NUMBER: P11-E078
PROPOSAL ACCEPTANCE BLOCK:

San Jacinto River Fleet, L.L.C.
Authorized Representative: _____

Printed Name: _____

Date: _____
Attached: TWE Fee Schedule
Terms for Professional Services

Tolunay-Wong Engineers, Inc.

2011 Schedule of Fees – Houston Office

Staff	Unit Rates
Principal	$185/hr
Senior Consultant	180/hr
Consultant	170/hr
Senior Project Manager	155/hr
Project Manager	135/hr
Senior Professional	110/hr
Project Professional	100/hr
Staff Professional	85/hr
Certified Welding Inspector	85/hr
Senior Technician	80/hr
Technician, Level III	64/hr
Technician, Level II	51/hr
Technician, Level I	48/hr
Computer-Aided Draftsman (CAD)	65/hr
Administrative Assistant	48/hr
Aide	37/hr

Transportation and Owned Equipment

Vehicle (within 60-mile radius)	$60/trip
Mileage (over 60-mile radius)	0.60/mi
Generator	30/day
Air Compressor	30/day
Nuclear Density Gauge	50/day
Handheld GPS Receiver	45/day
Concrete Pulse Velocity Equipment	175/day
Concrete Rebound Hammer	50/day
Pile Driving Analyzer (PDA)	600/day
Pile Integrity Tester (PIT)	300/day
Dynamic Cone Penetrometer	125/day
Slope Inclinometer Equipment	75/day
Vibrating Wire Data Recorder	120/day
Water Level Indicator	30/day
Survey Level	60/day
Field Vane Shear Tester (hand-held)	50/day
Downhole Vane Shear Device	400/day

Geotechnical Laboratory Testing

Index Tests:

Water Content (ASTM D 2216)	$7.00/ea
Visual Classification (ASTM D 2488)	6.00/ea
Water Content and Visual Classification (ASTM D 2216, ASTM D 2488)	10.00/ea
Plastic and Liquid Limits, 1-Point Method (ASTM D 4318)	45.00/ea
Plastic and Liquid Limits, 3-Point Method (ASTM D 4318)	60.00/ea
Liquid Limit Only (ASTM D 4318)	35.00/ea
Density (ASTM D 2937, ASTM D 7263)	14.00/ea
Specific Gravity of Soil (ASTM D 854)	50.00/ea

Grain-Size Tests:

Sieve Analysis, Through No. 200 Sieve (ASTM D 422)	$45.00/ea
Additional Sieves Finer Than No. 200	8.00/ea
Percent Finer Than No. 200 Sieve (ASTM D 1140)	35.00/ea
Complete Grain Size Analysis including Hydrometer (ASTM D 422)	100.00/ea

Dispersive Soil Tests:

Double Hydrometer (ASTM D 4221)	$150.00/ea
Pinhole Dispersion (ASTM D 4647)	175.00/ea
Crumb Test (ASTM D 6572)	15.00/ea

Permeability Tests:

Constant Head Permeability (granular soils) (ASTM D 2434)	$110.00/ea
Hydraulic Conductivity (cohesive soils) (ASTM D 5084)	250.00/ea
Long-Term Permeability Testing (greater than 7 days)	30.00/day

Shrinkage Tests:

Linear (Bar) Shrinkage (Tex-107E, ASTM D 4943)	$36.00/ea
Volumetric Shrinkage (ASTM D 4943)	35.00/ea

Other Tests:

Organic Content (Ignition Method) (ASTM D 2974)	$35.00/ea
Calcium Carbonate (ASTM D 4373)	25.00/ea
Electrical Resistivity (ASTM G 57, ASTM G 187)	40.00/ea
Thermal Conductivity (ASTM D 5334)	160.00/ea
pH (water) (EPA 150.1)	15.00/ea
pH (soil) (ASTM G 51, ASTM D 4972, EPA 9045D)	30.00/ea
Lime Series (Optimum Lime Content) – Plasticity Index Method (ASTM D 4318)	260.00/ea
Lime Series (Optimum Lime Content) – pH Method (ASTM D 6276, ASTM C 977)	175.00/ea
Soil Suction	10.00/ea

Strength Tests:

Hand Penetrometer	$3.00/ea
Torvane	3.00/ea
Unconfined Compression - Soil (ASTM D 2166)	35.00/ea
Unconfined Compression – Stabilized Soils (ASTM D 1633)	35.00/ea
Unconfined Compression – Rock (ASTM D 7012) (includes preparation)	270.00/ea
Unconsolidated-Undrained Triaxial Compression (ASTM D 2850)	55.00/ea
Consolidated-Undrained Triaxial Compression with Pore Water Pressure (ASTM D 4767)	260.00/ea
Consolidated-Undrained Triaxial Compression – Multi-Staged (three specimens) (ASTM D 4767)	550.00/ea
Consolidated-Drained Triaxial Compression (granular soils) (EM 1110-2-1906)	325.00/ea
Consolidated-Drained Triaxial Compression (cohesive soils) (EM 1110-2-1906)	550.00/ea
Consolidated-Drained Direct Shear (ASTM D 3080)	300.00/ea
Consolidated-Drained Direct Shear – Multi-Specimen (three specimens) (ASTM D 3080)	600.00/ea
Miniature Vane Shear (ASTM D 4648)	20.00/ea

Volume Change Tests:

One-Dimensional, Incremental Loading Consolidation (ASTM D 2435)	$375.00/ea
with intermediate rebound and reload	475.00/ea
additional load increments greater than 32 ksf	35.00/ea
Constant Rate of Strain Consolidation (ASTM D 4186)	500.00/ea
Free Swell	50.00/ea
Percent Swell (ASTM D 4546)	100.00/ea
Percent Swell and Swell Pressure (ASTM D 4546)	185.00/ea
Collapse Potential (ASTM D 5333)	350.00/ea

Test Variations:

Sample Preparation - Admixtures	$50.00/ea
Hand Trimming Samples	20.00/ea
Special Processing and Slaking of Soil	35.00/ea
Corrosive or Reactive Test Fluids - add	100.00/ea
Extrude Tube Samples and Visual Classification (ASTM D 2488)	25.00/ea
Sample Tube Cutting	15.00/cut
Mohr's Diagram Plot	20.00/ea
Stress-Strain Plot	15.00/ea
Confining Pressure Greater Than 140 psi	30.00/ea
Sample Capping	20.00/ea
Sample Compaction	40.00/ea

Construction Materials Laboratory Testing

Earthwork Tests:

Standard Compaction (Proctor) Effort (ASTM D 698)	$140.00/ea
Modified Compaction (Proctor) Effort (ASTM D 1557)	160.00/ea
TxDOT Compaction Test (Tex-113E)	160.00/ea
Sample Preparation – Oversized Material	40.00/ea
Sample Preparation – Soil Admixture	45.00/ea
Sample Preparation – Large Mold (6 inch)	25.00/ea
California Bearing Ratio (ASTM D 1883)	125.00/ea
TxDOT Triaxial Series (five specimens) (Tex-117E)	300.00/ea

Concrete Tests:

Concrete Mixture Verification	$325.00/ea
Compression of Concrete Cylinders (ASTM C 39)	
Specimens by TWE (including reserve specimens)	17.00/ea
Specimens by Others (minimum four specimens)	23.00/ea
Flexural Strength of Concrete Beams (includes reserve specimens) (ASTM C 78, ASTM C 293)	26.00/ea
Concrete Cores	
Concrete Coring	90.00/ea
Concrete Coring (minimum charge)	290.00/trip
Core Length (ASTM C 174)	15.00/ea
Core Compressive Strength (ASTM C 42)	40.00/ea
Compressive Strength of Grout Cylinder or Cube (ASTM C 109)	25.00/ea
Compressive Strength of Grout Prism (ASTM C 1019)	30.00/ea
Compressive Strength of Lightweight Concrete (ASTM C 495)	30.00/ea
Density of Lightweight Concrete (ASTM C 567)	20.00/ea

Aggregate Tests:

Sieve Analysis	
Coarse Aggregate (ASTM C 136)	$46.00/ea
Fine Aggregate (ASTM C 136)	46.00/ea
Material Finer Than No. 200 Sieve (ASTM C 117)	45.00/ea
Specific Gravity and Absorption	
Coarse Aggregate (ASTM C 127)	45.00/ea
Fine Aggregate (ASTM C 128)	48.00/ea
Unit Weight and Voids (ASTM C 29)	35.00/ea
Organic Impurities (ASTM C 40)	45.00/ea
Clay Lumps and Friable Particles (ASTM C 142)	50.00/ea
Lightweight Pieces (ASTM C 123)	55.00/ea
Sulfate Soundness (ASTM C 88)	330.00/ea
LA Abrasion (ASTM C 131, ASTM C 535)	185.00/ea
Sand Equivalent (ASTM D 2419)	56.00/ea
Slake Test (Tex-102E)	20.00/ea

Asphalt Tests:

Mix Design Review	$187.00/ea
Asphalt Cores	
Asphalt Coring	80.00/ea
Asphalt Coring (minimum charge)	290.00/trip
Core Length	12.00/ea
Core Bulk Density (ASTM D 2726)	50.00/ea
Molding of Hveem Specimens – Gyratory Method (three specimens/set) (Tex-206F)	54.00/set
Hveem Stability (three specimens/set) (ASTM D 1560, Tex-208F)	82.00/set
Extraction/Gradation – Solvent Method (ASTM D 2172)	234.00.ea
Extraction/Gradation – Ignition Method (Tex-236F)	234.00.ea
Specific Gravity (ASTM D 1188, Tex-207F)	62.00/ea
Maximum Theoretical Specific Gravity (ASTM D 2041, Tex-227F)	80.00/ea
Asphalt Content by Ignition Method (ASTM D 4125, Tex-236F)	70.00/ea

Terms

1. Rates for personnel participating in legal assignments will be invoiced at 1.5 times the standard rates.
2. Overtime rates for field personnel are applicable for all hours worked in excess of 8 hours per day, weekends, and holidays and are assessed at 1.5 times the standard rates.
3. Field personnel and equipment are assessed on a portal-to-portal basis, with a minimum call-out charge of 4 hours.
4. All expenses such as consultant fees, delivery services, equipment rental, outside reproduction services, subcontractor services, supplies, and travel including air fare, car rental, per diem, etc., will be assessed at cost plus 15 percent.
5. Invoices are due and payable within 30 days of date of invoice. Invoices are delinquent if payment has not been received within 30 days from date of invoice and are subject to additional charges.
6. Laboratory testing that is requested on an expedited basis will be subject to a 50 percent surcharge.
7. Contaminated samples that require special handing will be subject to a 100 percent surcharge. Client will be responsible for the proper disposal of contaminated samples.
8. All samples will be discarded at least 90 days after completion of report, unless directed otherwise by Client in writing.

EXHIBIT A
TERMS FOR PROFESSIONAL SERVICES

THE AGREEMENT

This AGREEMENT is made by and between TOLUNAY-WONG ENGINEERS, INC., hereinafter referred to as CONSULTANT, and the CLIENT of the attached PROPOSAL. This AGREEMENT between the parties consists of these TERMS, the attached PROPOSAL and any exhibits or attachments noted in the PROPOSAL will constitute the entire AGREEMENT. Any changes to this AGREEMENT must be mutually agreed to in writing.

STANDARD OF CARE

The CLIENT recognizes that subsurface conditions vary from those observed at locations where borings, surveys, or explorations are made, and that site conditions may change with time. Data, interpretations, and recommendations by the CONSULTANT will be based solely on information available to the CONSULTANT. The CONSULTANT is responsible for those data, interpretations, and recommendations, but will not be responsible for other parties' interpretations or use of the information developed.

Services performed by the CONSULTANT under this AGREEMENT are expected by the CLIENT to be conducted in a manner consistent with the level of care and skill ordinarily exercised by members of the profession practicing contemporaneously under similar conditions in the locality of the project. No other warranty, expressed or implied, is made.

SITE ACCESS AND SITE CONDITIONS

CLIENT will grant or obtain free access to the site for all equipment and personnel necessary for the CONSULTANT to perform the work set forth in this AGREEMENT. The CLIENT will notify any and all possessors of the project site that CLIENT has granted CONSULTANT free access to the site. The CONSULTANT will take reasonable precautions to minimize damage to the site, but it is understood by CLIENT that, in the normal course of work, some damage may occur and the correction of such damage is not part of this AGREEMENT unless so specified in the PROPOSAL.

SAMPLE DISPOSAL

The CONSULTANT will dispose of all soil and rock samples 30 days after submission of report covering those samples. Further storage or transfer of samples can be made at Client's expense upon CLIENT'S prior written request. All hazardous materials will be returned to CLIENT for disposal, unless other arrangements have been made by CLIENT.

CONSTRUCTION MONITORING

If the CONSULTANT is retained by the CLIENT to provide a site representative for the purpose of monitoring specific portions of the construction work as set forth in the PROPOSAL then this phrase applies. For the specified assignment, the CONSULTANT will report observations and professional opinions to the CLIENT. No action of the CONSULTANT or CONSULTANT's site representative can be construed as altering my AGREEMENT between the CLIENT and others. The CONSULTANT will report any observed work to the CLIENT which, in the CONSULTANT's professional opinion, does not conform to plans and specifications. The CONSULTANT has no right to reject or stop work of any agent of the CLIENT. Such rights are reserved solely for the CLIENT. Furthermore, the CONSULTANT's presence on site does not in any way guarantee the completion or quality of the performance of the work of any party retained by the CLIENT to provide construction related services.

The CONSULTANT will not be responsible for and will not have control or charge of specific means, methods, techniques, sequences or procedures of construction selected by any agent or AGREEMENT of the CLIENT, or safety precautions and programs incident thereto.

BILLING AND PAYMENT

CLIENT will pay CONSULTANT the lump sum amount indicated in the PROPOSAL or, if no lump sum amount is indicated, in accordance with the Schedule of Fees, as shown in the PROPOSAL and its attachments. Invoices will be submitted to CLIENT by CONSULTANT, and will be due and payable within 30 days of date of invoice. If CLIENT objects to all or any portion of any invoice, CLIENT will so notify CONSULTANT in writing within fourteen (14) calendar days of the invoice date, identify the cause of disagreement, and pay when due that portion of the invoice not in dispute. The parties will immediately make every effort to settle the disputed portion of the invoice. In the absence of written notification described above, the balance as stated on the invoice will be paid.

Invoices are delinquent if payment has not been received within thirty (30) days from date of invoice. CLIENT will pay an additional charge of 1-1/2 (1.5) percent per month (or the maximum percentage allowed by law, whichever is lower) on any delinquent amount, accepting any portion of the invoiced amount in dispute and resolved in favor of CLIENT. Payment thereafter will first be applied to accrued interest and then to the principal unpaid amount. All time spent and expenses incurred (including any attorney's fees) in connection with collection of any delinquent amount will be paid by the CLIENT to CONSULTANT per CONSULTANT's current fee schedule. In the event CLIENT fails to pay CONSULTANT within sixty (60) days after invoices are rendered, CLIENT agrees that CONSULTANT will have the right to consider the failure to pay the CONSULTANT's invoice as a breach of this AGREEMENT.

TERMINATION

The AGREEMENT may be terminated by either party seven (7) days after written notice. In the event of termination, CONSULTANT will be paid for services performed prior to the date of termination.

INDEMNIFICATION

Except for the gross negligence or intentional misconduct of the CONSULTANT, CLIENT will indemnify and hold the CONSULTANT harmless from any claim by or liability from a third party for injury or loss, arising out of the CONSULTANT's performance of the services described in this AGREEMENT. This indemnity shall not limit, restrict or prevent CLIENT from asserting any claims for liability against the CONSULTANT, under any one or more theories of recovery, including breach of contract, negligence, strict or statutory liability or any other cause of action

LIMITATION OF LIABILITY

The CLIENT will limit any and all liability or claim for damages, cost of defense, or expenses to be levied against CONSULTANT to a sum not to exceed $50,000, or the amount of this fee, whichever is greater, on account of any design defect, error, omission, or professional negligence. The CLIENT agrees to notify any contractor who perform work in connection with the study prepared by the CONSULTANT of such limitation of liability and require a like limitation on their part in favor of the CONSULTANT. In the event the CLIENT fails to obtain a like limitation of liability provision, the liability of the CLIENT and the CONSULTANT to such contractor shall be allocated between the CLIENT and the CONSULTANT such that the aggregate liability of the CONSULTANT to all parties, including the CLIENT, shall not to exceed $50,000 or the amount of the CONSULTANT's fee, whichever is greater. The CONSULTANT makes no warranties, either expressed or implied, except as set forth above.

DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIALS

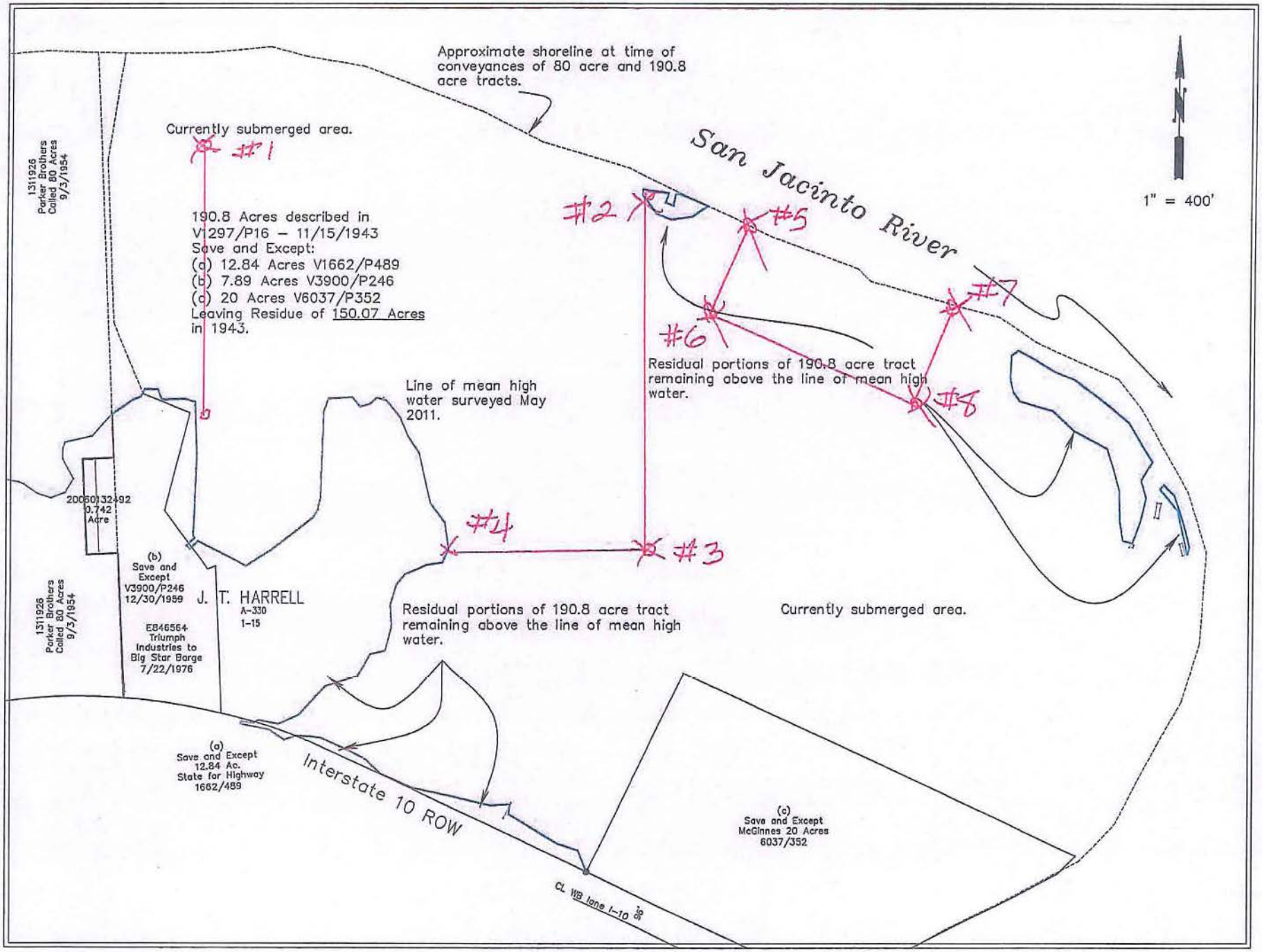
CLIENT warrants a reasonable effort to inform CONSULTANT of known or suspected hazardous materials on or near the project site. Hazardous materials may exist at a site where there is no reason to believe they could or should be present. CONSULTANT and CLIENT agree that the discovery of hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. CONSULTANT and CLIENT also agree that the discovery of hazardous materials may make it necessary for CONSULTANT to take immediate measures to protect health and safety. CLIENT agrees to compensate CONSULTANT for any equipment decontamination or other costs incident to the discovery of hazardous waste.

CONSULTANT agrees to notify CLIENT when hazardous materials or suspected hazardous materials are encountered. CLIENT agrees to make any disclosures required by law to the appropriate governing agencies. CLIENT also agrees to hold CONSULTANT harmless for any and all consequences of disclosure made by CONSULTANT which are required by governing law. In the event the project site is not owned by CLIENT, CLIENT recognizes that it is the CLIENT's responsibility to inform the property owner of the discovery of hazardous materials or suspected hazardous materials.

Not withstanding any other provisions of the AGREEMENT, CLIENT waives any claim against CONSULTANT, and to the maximum extent permitted by law, agrees to defend, indemnify, and save CONSULTANT harmless from any claim, liability, and/or defense costs for injury or loss arising from CONSULTANT's discovery of hazardous materials or suspected hazardous materials including any costs created by delay of the project and any costs associated with possible reduction of the property's value. CLIENT will be responsible for ultimate disposal of any samples secured by the CONSULTANT which are found to be contaminated.

GOVERNING LAW AND SURVIVAL

The law of the State of Texas will govern the validity of these TERMS, their interpretation and performance. If any of the provisions contained in this AGREEMENT are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired. Limitations of liability and indemnities will survive termination of the AGREEMENT for any cause.


Approximate shoreline at time of conveyances of 80 acre and 190.8 acre tracts.
Currently submerged area.
#1
1311926
Parker Brothers
Called 80 Acres
9/3/1954
190.8 Acres described in
V1297/P16 – 11/15/1943
Save and Except:
(a) 12.84 Acres V1662/P489
(b) 7.89 Acres V3900/P246
(c) 20 Acres V6037/P352
Leaving Residue of 150.07 Acres
in 1943.
San Jacinto River
#2
#5
#7
#6
#8
Residual portions of 190.8 acre tract remaining above the line of mean high water.
1" = 400'
Line of mean high water surveyed May 2011.
20060132492
0.742
Acre
#4
#3
(b)
Save and
Except
V3900/P246
12/30/1959
J. T. HARRELL
A-330
1-15
E846564
Triumph
Industries to
Big Star Barge
7/22/1976
1311926
Parker Brothers
Called 80 Acres
9/3/1954
Residual portions of 190.8 acre tract remaining above the line of mean high water.
Currently submerged area.
(a)
Save and Except
12.84 Ac.
State for Highway
1662/489
Interstate 10 ROW
(c)
Save and Except
McGinnes 20 Acres
6037/352
CL WB lane I-10